

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANGIOSCORE, INC.,

Plaintiff,

v.

TRIEME MEDICAL, INC., ET AL.,

Defendants.

Case No. 12-cv-03393-YGR

**TRIAL ORDER NO. 1 (PATENT CLAIMS) RE:
OBJECTIONS AND PROFFER**

Outside the presence of the jury at today's trial session, the Court took under submission defendants' objections to the admission of plaintiff's trial exhibit number 3336, along with portions of designated deposition testimony that reference the document (Dkt. No. 721-4 (Borrell January 15, 2015 deposition transcript); Dkt. No. 721-10 (Jonathan Dreaden November 4, 2014 deposition transcript)).¹ The objections are **OVERRULED** except as to the following Borrell designations, as to which they are **SUSTAINED**: deposition transcript at 134:16-135:1, 6-21, and 24. The objection stated at Dreaden deposition transcript 133:3 shall not be played.

Additionally, plaintiff offered a proffer, pursuant to the Court's Pre-Trial Order No. 5 (Dkt. No. 749 at 7), as to certain excerpts from Marc Levenston's expert report (Dkt. No. 393-14). Specifically, plaintiff seeks to introduce the first two full sentences on page 38 and the end of the measurements section, starting with the last sentence ("On the contrary. . .") of page 38 through the first paragraph of page 39. Having reviewed these excerpts, the Court agrees these opinions were derived from Levenston's observations or general knowledge, training, or expertise, rather than from the excluded measurements. Thus, Levenston may offer testimony as to those excerpts.

IT IS SO ORDERED.

Dated: September 14, 2015


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

¹ See objections described in discovery excerpts filing (Dkt. No. 719) at Nos. 82-86 and 288-294.